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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,334	03/26/2004	Ross Lyell Cowie	117-1 US	8231
24949	7590	11/21/2005	EXAMINER	
TEITELBAUM & MACLEAN 1187 BANK STREET, SUITE 201 OTTAWA, ON K1S 3X7 CANADA			MCPARTLIN, SARAH B	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/809,334

Applicant(s)

COWIE ET AL.

Examiner

Sarah B. McPartlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/26/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information referred to in the information disclosure statements filed on March 26, 2004 has been considered as to the merits.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spring clip biasing the tension rod means to the extended position must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.


Claim Objections

3. Claims 15-20 are objected to because of the following informalities: It appears as if the word - - other- - should be inserted between the words "each" and "into" in line 15 of claim 15. Claims 16-20 are objected to as being dependent upon an objected base claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

 5. Claims ¹⁻1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following words/phrases lack sufficient antecedent basis:

- the ground (claim 1, line 6; claim 15, line 6)

Claims 2-14 and 16-20 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 9 and 11 are rejected as best understood under 35 U.S.C. 102(b) as being anticipated by Moskovitz (4,740,010). Moskovitz discloses a mobility aiding device (10) adjustable between a use position (Figure 1) and a storage position (Figure 2) comprising: a first frame member (11) having a pair of ground engaging means (18)(18) at a lower end thereof; a second frame member (12) having a pair of ground engaging means (18)(18) at a lower end thereof; a first support (43) pivotally connected by way of pin (47) to the first frame member (11); a second support (44) pivotally connected to the second frame member (12) by way of pivot pin (47) and pivotally connected to the first support (43) by way of pivot pin (48) and lock means (32), the first and second supports (43)(44) for supporting a weight about the ground in the use position; hinge means (48)(48) pivotally connecting the first support (43) to the second support (44) by way of locking means (32) enabling the first and second supports (43)(44) to pivot towards each other into the storage position; and tension rod means (45)(46) for distributing the weight between the first and second supports (43)(44), said tension rod means being adjustable between an extended position in which the tension rod structurally interconnected first and second supports (43)(44) and a released position enabling the device to be adjusted to the storage position.

With respect to claim 2, strut means (39)(40) is present for helping transfer the weight from the hinge means (32)(48) to the tension rod means (45)(46).

With respect to claim 9, a locking feature (32) for maintaining the tension rod means (45)(46) in the extended position is disclosed.

With respect to claim 11, the tension rod means (45)(46) includes a first link (45) connected to the first support (11) and a second link (46) connected to the second support (12) and the first link (45) by way of locking means (35).

8. Claim 15 is rejected as best understood under 35 U.S.C. 102(b) as being anticipated by Brown et al. (6,135,475). Brown et al. disclose a mobility aiding device (10) adjustable between a use (Figure 1) and storage (Figure 8) position comprising: a first frame member (86)(84) having a pair of ground engaging means (78) and (32) at a lower end thereof; a second frame member (88)(90) having a pair of ground engaging means (80) and (34) at a lower end thereof; a first support (60) pivotally connected to the first frame member (84)(86); a second support (62) pivotally connected to the second frame member (88)(90) and pivotally connected to the first support (60) by way of element (18), the first and second supports (60)(62) for supporting a weight above the ground in the use position; first hinge means (18)(58)(58) pivotally connecting upper portions of the first and second supports (60)(62) enabling the first and second supports to pivot towards each other into the storage position while preventing any pinching action of the first and second supports during entry in the use position; first and second link means (66)(68) pivotally connected to lower portions of the first and second

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supports (60)(62) by way of first and second frame members, for distributing the weight to the first and second frame members while in the use position; and second hinge means (unlabeled) but best depicted in Figure 6 connecting the first and second link means (66)(68), the second hinge means parallel to the first hinge means (18)(58)(58) enabling the first and second link means (66)(68) to pivot towards each into the storage position.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 19 is rejected as best understood under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (6,135,475) in view of Panaia et al. (4,493,488). As disclosed above, Brown et al. reveal all claimed elements with the exception of a locking means for maintaining the seat and consequently the first and second links in the extended position.

Panaia et al. teach the use of locking screws (50) for engaging with a hole in the frame member when the seat is pivoted to the use position thereby keeping link elements (10) in an extended position.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a locking configuration as disclosed by Panaia to the collapsible

wheelchair shown by Brown. Such a modification would ensure that the seat does not accidentally collapse while occupied thereby improving user safety.

Allowable Subject Matter

11. Claims 3-8, 10, 12-14, 16-18 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Wagner (4,770,432); Erfurth et al. (5,605,345); Schultz et al. (6,296,263) ; Kenner (3,957,071) ; Killian (952,335) ; Ennals et al. (US2004/0040589) ; Elvinsson (5,417,472) ; Austin (5,380,262) and Benoit (5,244,222).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM
November 16, 2005


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600